IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6381 of 2004

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PATHAN MISARIKHAN DILAVARKHAN

Versus

DISTRICT EDUCATION OFFICER

Appearance:

MR SANJAY M AMIN for Petitioner No. 1

MISS NANDINI JOSHI, AGP, for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 08/10/2004

ORAL JUDGEMENT

1. The petitioner herein has prayed for a direction to the respondent authority to make necessary correction in the school leaving certificate by incorporating the correct date of birth and to issue corrected school leaving certificate to the petitioner.

2. According to the petitioner, the petitioner was

born at Patan on 18.8.1982 and due to some mistake the date of birth was registered in the school leaving certificate as 29.2.1983. The petitioner contended that the respondent authority refused to make such correction in the school leaving certificate.

3. Learned counsel for the respondent pointed out that the District Education Officer has no jurisdiction to entertain and effect such change in the school leaving certificate and the petitioner has to approach the Judicial Magistrate, First Class, having jurisdiction under section 13(3) of the Registration of Births & Deaths Act, 1969. Learned counsel for the respondent has relied upon a decision of Division rendered in Letters Patent Appeal No.699 of 2003 dated 11.8.2003 wherein the Division Bench has dealt with the very same issue. In para 4 of the said decision the Division Bench held as under:

> "4. ...Therefore, in view of Regulation 12-A Gujarat Secondary Education Regulations, 1974, school record could not have been corrected after the son of appellant had left the school. The only remedy of the appellant was to approach learned Magistrate, First Class, having jurisdiction in the matter for redressal of his grievance as provided under Section 13(3) of the Act. Therefore, the learned Single Judge was justified in concluding that the appellant has alternative remedy and that it was not necessary to entertain the petition filed under Article 226 of the Constitution. .."

4. In view of the above facts and circumstances, the appropriate remedy for the petitioner is to approach the Judicial Magistrate, First Class, for redressal of his grievance.

5. Subject to the above observations the petition is rejected. Rule is discharged with no order as to costs.

[K.S. JHAVERI, J.]

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